

## EXTRADITION

*Treaty and exchange of notes signed at San José November 10, 1922  
Senate advice and consent to ratification, with an understanding, Feb-  
ruary 8, 1923*<sup>1</sup>

*Ratified by Costa Rica March 7, 1923*

*Ratified by the President of the United States, with an understanding,  
April 11, 1923*<sup>1</sup>

*Ratifications exchanged at San José April 27, 1923*

*Entered into force April 27, 1923*

*Proclaimed by the President of the United States May 3, 1923*

43 Stat. 1621; Treaty Series 668

### TREATY

The Republics of the United States of America and of Costa Rica, desiring to assure the prompt and efficient action of justice in punishing delinquents who attempt to escape the penalty prescribed by the Laws of one country by taking refuge in the other, have resolved to conclude a Treaty of Extradition. For that purpose they have named as their respective Plenipotentiaries:

The President of the United States of America, Mr. Roy Tasco Davis, Envoy Extraordinary and Minister Plenipotentiary of the United States of America in Costa Rica; and

The President of the Republic of Costa Rica, the Secretary of State in the Office of Foreign Relations, señor José Andrés Coronado Alvarado;

Who, after having mutually communicated their full powers, and they being found in good and due form, have stipulated as follows:

### ARTICLE I

It is agreed that the Government of the United States of America and the Government of Costa Rica shall, upon mutual requisition duly made as

<sup>1</sup> The U.S. understanding reads as follows:

"That it is agreed by the United States that no person charged with crime shall be extradited from Costa Rica upon whom the death penalty can be inflicted for the offense charged by the laws of the jurisdiction in which the charge is pending, and that this agreement on the part of the United States will be mentioned in the ratifications of the treaty and will, in effect, form part of the treaty."

herein provided deliver up to justice any person who may be charged with, or may have been convicted of any of the crimes specified in Article II of this Convention committed within the jurisdiction of one of the Contracting Parties while said person was actually within such jurisdiction when the crime was committed, and who shall seek an asylum or shall be found within the territories of the other, provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

## ARTICLE II

Persons shall be delivered up according to the provisions of this Convention, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of paricide, assassination, manslaughter, when voluntary, poisoning or infanticide, as well as the attempt to commit these crimes.
2. Rape, abortion, carnal knowledge of children under the age of twelve years.
3. Bigamy.
4. Arson.
5. Willfull and unlawful destruction or obstruction of railroads, which endangers human life.
6. Crimes committed at sea:
  - (a) Piracy, as commonly known and defined by the laws of Nations, or by Statute;
  - (b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;
  - (c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;
  - (d) Assault on board ships upon the high seas with intent to do bodily harm.
7. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein.
8. The act of breaking into and entering into the offices of the Government and public authorities, or the offices of banks, banking houses, saving banks, trust companies, insurance companies, or other buildings not dwellings with intent to commit a felony therein.
9. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, goods or money by violence or by putting him in fear.

10. Forgery or the utterance of forged papers.

11. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.

12. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, banknotes, or other instruments of public credit, counterfeit seals, stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

13. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars (or Costa Rican equivalent).

14. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars (or Costa Rican equivalent).

15. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

16. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars, or more, (or Costa Rican equivalent).

17. Obtaining money, valuable securities or other property by false pretenses or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars (or Costa Rican equivalent).

18. Perjury or subornation of perjury.

19. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any Company or Corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars (or Costa Rican equivalent).

20. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

21. The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both Contracting Parties.

## ARTICLE III

The provisions of this Convention shall not import claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the Contracting Parties in virtue of this Convention shall be tried or punished for a political crime or offense. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the Sovereign or Head of a foreign State, or against the President of either of the signatory Republics, shall not be deemed sufficient to sustain that such a crime or offense was of a political character, or was an act connected with crimes or offenses of a political character.

## ARTICLE IV

No person shall be tried for any crime or offense other than that for which he was surrendered.

## ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

## ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and, until he shall have been set at liberty in due course of law.

## ARTICLE VII

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

## ARTICLE VIII

Under the stipulations of this Convention, neither of the Contracting Parties shall be bound to deliver up its own citizens or subjects. In each Republic, according to their respective laws, shall the citizenship of the delinquent be determined.

## ARTICLE IX

The expense of the arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

## ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of either of the Contracting Parties, be delivered up with his person at the time of the surrender. Nevertheless, the rights of a third party with regard to the articles aforesaid, shall be duly respected.

## ARTICLE XI

The stipulations of this Convention shall be applicable to all territory, whatever may be its situation, belonging to one or the other of the Contracting Parties or which may be occupied and under the jurisdiction of the same.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the Contracting Parties. In the event of the absence of such Agents from the country or its seat of Government, requisition may be made by superior Consular officers.

It shall be competent for such Diplomatic or superior Consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the Court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

## ARTICLE XII

If when a person accused shall have been arrested in virtue of the mandate or preliminary warrant of arrest, issued by the competent authority as pro-

vided in Article XI hereof, and been brought before a judge or a magistrate to the end that the evidence of his or her guilt may be heard and examined as herein before provided, it shall appear that the mandate or preliminary warrant of arrest has been issued in pursuance of a request or declaration received by telegraph from the Government asking for the extradition, it shall be competent for the judge or magistrate at his discretion to hold the accused for a period not exceeding two months, so that the demanding Government may have opportunity to lay before such judge or magistrate legal evidence of the guilt of the accused, and if at the expiration of said period of two months, such legal evidence shall not have been produced before such judge or magistrate, the person arrested shall be released, provided that the examination of the charges preferred against such accused person shall not be actually going on.

#### ARTICLE XIII

In every case of a request made by either of the two Contracting Parties for the arrest, detention or extradition of fugitive criminals, the legal officers or fiscal ministry of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of his or their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

#### ARTICLE XIV

This treaty must be submitted for approval in the form prescribed by the laws of the two countries and shall take effect from the day of the exchange of the ratifications thereof; but either Contracting Party may at any time terminate it on giving to the other six months notice of its intention to do so.

The ratifications shall be exchanged in San José of Costa Rica or in Washington as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the above articles, and have hereunto affixed their seals.

Done in duplicate, at the city of San José De Costa Rica this tenth day of November one thousand nine hundred and twenty two.

ROY TASCO DAVIS	[SEAL]
J. A. CORONADO	[SEAL]

## EXCHANGE OF NOTES

*The Secretary of State for Foreign Affairs to the American Minister*

[TRANSLATION]

REPUBLIC OF COSTA RICA  
DEPARTMENT OF FOREIGN RELATIONS  
No. 333, B

*San José, November 10, 1922*

Mr. MINISTER:

I have the honor to inform Your Excellency that I have received instructions from the President of the Republic to declare on the part of the Government of Costa Rica, with reference to the extradition treaty that Your Excellency and the undersigned have just signed, that it is understood that the Government of the United States of America gives assurance that the death sentence will not be passed upon criminals surrendered by Costa Rica to the United States of America for any one of the crimes enumerated in the said treaty, and that that assurance will form an effective part of the treaty and that it will be so mentioned in its ratification.

I avail myself of this opportunity to renew to Your Excellency the assurance of my most distinguished consideration.

J. A. CORONADO

The Most Excellent Mr. ROY T. DAVIS,  
*Envoy Extraordinary and  
Minister Plenipotentiary of  
the United States of America,  
San Jose.*

---

*The American Minister to the Secretary of State for Foreign Affairs*

LEGATION OF THE  
UNITED STATES OF AMERICA

No. 63

*San José, Costa Rica, November 10, 1922*

EXCELLENCY:

In signing today with the Secretary of State for Foreign Affairs of the Republic of Costa Rica the extradition treaty which was negotiated between the Government of the United States and that of Costa Rica, the undersigned Envoy Extraordinary and Minister Plenipotentiary of the United States of America has the honor to acknowledge and to take cognizance of the note of the Secretary of State for Foreign Affairs of this day's date, stating that he desires to place on record, on behalf of the Costa Rican Government, its understanding that the Government of the United States assures that the death penalty will not be enforced against criminals delivered by Costa Rica to the United States for any of the crimes enumerated in the said treaty,

and that such assurance is, in effect, to form part of the treaty and will be so mentioned in the ratifications of the treaty.

In order to make this assurance in the most effective manner possible, it is agreed by the United States, that no person charged with crime shall be extraditable from Costa Rica upon whom the death penalty can be inflicted for the offense charged by the laws of the jurisdiction in which the charge is pending.

This agreement on the part of the United States will be mentioned in the ratifications of the treaty and will in effect form part of the treaty.

I avail myself of this occasion to renew to Your Excellency the assurance of my highest and most distinguished consideration.

ROY T. DAVIS

His Excellency

Señor don JOSÉ ANDRÉS CORONADO,  
*Secretary of State for Foreign Affairs, Etc., Etc., Etc.,*  
*San Jose.*